

REMARKS

The Office Action dated October 10, 2007 has been carefully reviewed and considered. Claims 17, 24, 25, 27, 28, and 32-38 are currently pending and stand rejected. The Applicants have amended Claims 17, 24, 27, 32 and have cancelled Claim 34. Applicants respectfully request entry of the foregoing Amendments and reconsideration of the present application in light of the amendments above and the remarks below.

Drawings

The drawings of the present application have been objected to in the Office Action under 37 CFR 1.83(a). The Applicant respectfully traverses. However, to expedite prosecution of the present application, Claim 26 has been amended and Claim 34 has been cancelled. Withdrawal of the objection is respectfully requested.

The 35 U.S.C. § 103 Rejection

Claims 17, 24, 25, 27, 28, and 32-38 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Younker. (US Patent No. 5,951,301), hereinafter referred to "Younker", in view of Carlson et al. (US Patent No. 5,820,600), hereinafter referred to "Carlson." The Applicants respectfully traverse.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally,

the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991).

In determining obviousness four factual inquiries must be looked into in regards to determining obviousness. These are determining the scope and content of the prior art; ascertaining the differences between the prior art and the claims in issue; resolving the level of ordinary skill in the pertinent art; and evaluating evidence of secondary consideration. *Graham v. John Deere*, 383 U.S. 1 (1966); *KSR Int'l Co. v. Teleflex, Inc.*, No 04-1350 (U.S. Apr. 30, 2007) (“ Often, it will be necessary . . . to look into related teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit.”) (emphasis added).

In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530 (Fed. Cir. 1983). Thus, when considering the whole prior art reference its entirety, portions that would lead away from the claimed invention must be considered. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983), See M.P.E.P. 2141.02. Thus, it is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731 (Fed. Cir. 1983).

Neither Younker nor Carlson disclose or suggest a bracket coupled to the mock anatomical site and the a bracket positioned between the mock anatomical site and the sensing

assembly, whereby the ring and retainer allow the mock anatomical site to pivot with respect to the bracket, as recited in Claims 17 and 32. In addition, neither Younker nor Carlson disclose or suggest a bracket coupled to the mock anatomical site at a first end and the housing at a second end, as recited in Claim 24. Considering that the combination of Younker and Carlson does not teach or suggest each and every element/limitation in the claims, Claims 17, 24 and 32 are therefore patentable over the combination of references. For at least these reasons, Claims 17, 24 and 32 are in condition for allowance.

Dependent Claims 25, 27, 28, 33, and 35-38 are based on allowable claims 24 and 32. Accordingly, dependent claims 25, 27, 28, 33, and 35-38 are also allowable.

Conclusion


Based on all of the above, Applicants believe all claims now pending in the present application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

No additional fees are believed to be due at this time. However, please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Applicants thank the Examiner for carefully examining the present application and if a telephone conference would facilitate the prosecution of this application, the Examiner is invited to contact the undersigned at the number below.

Respectfully submitted,
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